IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 22964 of 1999

Between:

Vayalagari Ananthaiah S/o Pakeerappa, aged 65 years, Sharzakhanpet,

Kosigi Mandal, Mahabubnagar District.

..... PETITIONER

AND

1. The Joint Collector, (Inams), Mahaboobnagar District,
2. The Revenue Divisional Officer, Narayanapet, Mahaboobnagar District.
3. The Mandal Revenue Officer, Kosigi Mandal, Mahaboobnagar District,
4. The Secretary, A.P.Wakf Board, Nampally, Hyderabad.
5. Netti Mogalappa, S/o Iswarappa, aged 65 years, R/o Sharzakhanpet,

Kosigi Mandal, Mahaboobnagar District,

6. Netti Buddappa, S/o Iswarappa, aged 70 years, R/o Sharzakhanpet, Kosigi Mandal, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more especially one in the nature of Certiorari calling for the records leading up to and inclusive of the order of the first respondent in Case No.B2/1A-1/93, dated 21-09-1998 confirming the order of the second respondent dated 16-08-1989 in File A/2796/89 under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 and quash the same holding it to be illegal and arbitrary and consequently direct the respondent No.2 to consider the occupancy rights on the petitioner by declaring him as a protected tenant under the Andhra Pradesh (Telangana Area) Tenancy Act and restore possession to the petitioner in Survey No.22 of an extent of Ac.2.02 guntas of Sharzakhanpet village, Kosigi Mandal, Mahaboobnagar District.

Counsel for the Petitioner:MR.P.SRI RAGHU RAM

Counsel for the Respondents 1 to 3: GP FOR REVENUE

Counsel for the respondent No.4 : Abdul Muqeeth Qureshi,

Counsel for the respondents 5 and 6 : M/s J.Prabhakar,

The Court made the following :

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.22964 OF 1999

ORDER:

The petitioner assails the order of the first respondent dated 21-09-1998, which was passed in exercise of the power under Section 24 of A.P. (Telangana Area) Abolition of Inams Act, 1955 (hereafter called the Act).

On an application made by respondents 5 and 6 claiming Occupancy Rights Certificate (ORC) under Section 10 of the Act, the second respondent by order dated 16.08.1989 issued ORC in favour of them. It was the case of the respondents 5 and 6 that the land admeasuring Ac.4.04 guntas in Survey No.22 of Sharzakhanpet village was 'Mafi Inam' belonging to Hussain Shah, who was the Inamdar. The land was cultivated by Reddipally Bichappa (Ac.2.02 guntas) and Vaigari Pakirappa (Ac.2.02 guntas) as the protected tenants, that the respondents 5 and 6 purchased the land admeasuring Ac.2.02 guntas from Bichappa through a registered sale deed dated 04.03.1987 and therefore, they are allegedly entitled for ORC. Indeed, it is also the case of the respondents 5 and 6 that they also purchased the land admeasuring Ac.2.02 guntas under the occupancy of another protected tenant Pakeerappa under registered sale deed and pursuant to the sale deed, Pakeerappa handed over possession to them. The petitioner herein challenged the ORC in respect of the land, which the respondents 5 and 6 purchased from Bichappa.

The Appellate Authority found that respondents 5 and 6 are continuously in possession of the property that they purchased the said land under sale deed No.240 dated 4.3.1987 and accordingly dismissed the appeal. Assailing the same, the writ petition is filed.

Learned counsel for the petitioner submits that Pakeerappa was dispossessed pursuant to sale deed allegedly executed by him in favour of respondents 5 and 6 and therefore the petitioner herein has filed an application under Section 32 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short, the Tenancy Act) which is pending before the third respondent. Therefore, this fact ought to have been taken into consideration by the Appellate Authority.

The petitioner does not dispute that the ORC issued by the second respondent on 16.08.1989 is in respect of Ac.2.02 guntas, which was purchased by

the respondents 5 and 6 from Bichappa, one of the two protected tenants. Therefore, the petitioner, who is son of Pakeerappa could not have any grievance in respect of the land, which was purchased from Bichappa. The petitioner filed an application under Section 32 of the Tenancy Act, which is pending before the Mandal Revenue Officer. The petitioner has to pursue said remedy before the Mandal Revenue Officer. In that view of the matter, I do not find any illegality or infirmity in the order passed by the first respondent. However, the Mandal Revenue Officer is directed to dispose of the application filed by the petitioner under Section 32 of the Tenancy Act, within eight (8) weeks from the date of receipt of a copy of this order in accordance with law, without in any manner being influenced by the observations made herein above.

The writ petition, with the above observations, is dismissed.

_____

(V.V.S.RAO,J)

26.07.2004.

pln

To

1.The Joint Collector, (Inams), Mahaboobnagar District,

2.The Revenue Divisional Officer, Narayanapet, Mahaboobnagar District.

3.The Mandal Revenue Officer, Kosigi Mandal, Mahaboobnagar District,

4. 2 CCs to the Govt.Pleader for Revenue, High Court Buildings, Hyderabad.

5. 2 CDs.